

### **REMARKS**

This Amendment is in response to the Office Action mailed April 23, 2008. In the Office Action, claims 1-15 have been rejected. Claims 1 and 12 have been rejected under 35 U.S.C. §112. Claims 1-4 and 6-15 have been rejected under 35 U.S.C. §102(e). Claim 5 has been rejected under 35 U.S.C. §103. Applicant respectfully traverses the rejection and respectfully requests the Examiner to reconsider the allowability of the pending claims.

#### ***Request for Examiner's Interview***

Applicant respectfully requests the Examiner to contact the undersigned attorney if, after his review, there are still questions regarding patentability. Such discussions will greatly facilitate the prosecution of this case. The undersigned attorney can be reached at the telephone number listed below.

#### ***Rejection Under 35 U.S.C. § 112***

Claims 1 and 12 were rejected under 35 U.S.C. § 112, second paragraph. Applicant respectfully disagrees with the rejection because the term "disregard" has not indefinite a plain meaning that is well-known in the industry. When the content (or data) within a packet is disregarded, this means that the content (or data) is ignoring and is not operating on.

However, claim 1 has been amended to indicate that particular data, considered to be duplicative, is discarded which is one technique to disregard the data.

Applicants respectfully request the Examiner to withdraw the outstanding §112 rejection.

#### ***Rejection Under 35 U.S.C. §102***

Claims 1-4 and 6-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Carny (U.S Patent Publication No. 2002/0150239). Applicants respectfully traverse the rejection because a *prima facie* case of anticipation has not been established.

As the Examiner is aware, to anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Vergegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989).

Herein, the Office Action states that Carny discloses a method for providing content from a head-end to a digital device, where the first packet including a first packet identifier to indicate a type of data stored in a payload of the first packet and a second packet including a secondary packet identifier to indicate that the second packet includes content duplicative of content contained in the first packet and to cause the digital device to disregard content contained in the first packet." We disagree.

As shown in Figure 6, Carny describes a combined technique for watermarking fragments of digital content (242, 244, 246), and thereafter, encrypting these watermarked fragments (642, 644, 646) with different encryption keys provided by key management system (250). Paragraphs [0052, 0059, 0062] of Carny do not describe any operation on packets where a second packet includes a secondary packet identifier that is used to indicate that the second packet includes data (or content) duplicative of the data (or content) contained in the payload of a first packet and to cause the digital device to disregard the data (or content) contained in the first packet. Rather, these paragraphs are directed to the marking and subsequent encryption operations performed on salient segments of digital content to ensure that removal of the marked segments would cause a noticeable change or distortion of the content. See paragraph [0052]

Hence, Applicant respectfully requests the Examiner to withdraw the outstanding §102(e) rejection.

### ***Rejection Under 35 U.S.C. § 103***

Claim 5 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Carny (U.S. Publication No. 2002/0150239) in view of Monta et al. (U.S. Patent No. 7,039,048). Applicant respectfully traverses the rejection because a *prima facie* case of obviousness has not been established.

As the Examiner is aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *See MPEP §2143; see also In Re Fine, 873 F. 2d 1071, 5 U.S.P.Q.2D 1596 (Fed. Cir. 1988).*

Herein, the combined teachings of the cited references fail to describe or suggest all of the claim limitations as described above. Moreover, since claim 5 is dependent on claim 1, believed by Applicant to be in condition for allowance, no further discussion as to the grounds for traverse is warranted. Applicant reserves the right to present such arguments in an Appeal is warranted.

Withdrawal of the §103 rejection as applied to claim 5 is respectfully requested.

Appli. No. 10/815,371  
Amdt Dated July 23, 2008  
Reply to Office Action of 04/23/2008

***Conclusion***

Applicants respectfully request that the Examiner reconsider the rejections and issue a timely Notice of Allowance.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: July 23, 2008

By /William W. Schaal/

William W. Schaal

Reg. No. 39,018

Tel.: (714) 557-3800 (Pacific Coast)

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040